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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,791	01/23/2002	Philippe Pouletty	DASI.005.00US	9331
31272	7590	11/04/2004	EXAMINER	
RAE-VENTER LAW GROUP, P.C. P.O. BOX 1898 MONTEREY, CA 93942-1898			KILLOS, PAUL J	
			ART UNIT	PAPER NUMBER
			1625	

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,791

Applicant(s)

POULETTY ET AL.

Examiner

Paul J. Killos

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7,8,31-37 and 43-51 is/are allowed.
- 6) ☒ Claim(s) 1-6,9-11,14-30 and 42 is/are rejected.
- 7) ☒ Claim(s) 12,13,38-41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 1625

This is in response to the amendment filed 20 July 2004.

The claims are 1-51

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-3, 4, and 42 are rejected under 35 USC 103 (a) as being obvious over Inayama, S. et al, Chemical and Pharmaceutical Bulletin (1977)838-40

Compound III of the reference renders obvious claims 1-3, 4, and 42, and while the reference is silent about enantiomeric forms it would be obvious to the artisan to recognize the two enantiomers and be able to separate them if so desired.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5 and 6 are rejected under 36 USC 102 (b) as being anticipated by U.S. Patent 4,329,281, published 11 May 1982

The compound 1 on column 2 anticipates claim 5, and the compound on column 1 between lines 45 to 54 anticipated claim 6.

Claims 15-30 are rejected under 35 USC 102(b) as being anticipated by EP 0,574,782 A2 published 22 December 1993.

Art Unit: 1625

The reference teaches amphetamine and methamphetamine immunogens 1 and immunogen 2 respectively. With respect to claims 28 and 29, on page 3 about line 50, the reference teaches monoclonal antibodies and how they are generated. With respect to claim 30, the reference, on page 3, line 51, teaches hybridoma cell culture supernatant containing the monoclonal antibody.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9,10,11,and 14 are rejected under 35 USC 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims must stand on their own and not make reference to the figures.

Claims 12,13, and 38-41 are objected to as being dependent on rejected claims

Claims 7,8,31-37 and 43-51 are considered to be allowable.

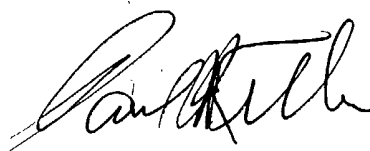
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul J. Killos whose telephone number is 571-2720687..

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/057,791

Art Unit: 1625

Page 4

A handwritten signature in black ink, appearing to read "Paul J. Killos". The signature is stylized with a large, sweeping initial "P" and a cursive "J".

Paul J. Killos
Primary Examiner
Art Unit 1625

pjk